



U.S. Department of Housing and Urban Development
Office of Inspector General
451 7th Street SW
Washington, DC 20410

MEMORANDUM NO:
2011-HA-0801

September 28, 2011

MEMORANDUM FOR: Inez Banks-Dubose, Director, Office of Departmental Operations and Coordination, I

FROM: Sandra G. Elion, Director, Headquarters Audit Division, GAH

SUBJECT: Interim Memorandum Report on the Office of Labor Relations' Management of the Davis-Bacon Wage Restitution and Deposit Account

INTRODUCTION

In response to an audit request by the Acting Director of the Office of Labor Relations (Labor Relations), we are auditing the Labor Relations' deposit and wage restitution process. The Acting Director was concerned with the internal controls over the deposit account. Specifically, the Acting Director was concerned that only a few U.S. Department of Housing and Urban Development (HUD) employees were responsible for the deposit process, the deposit account balance in Labor Relations' records was an estimated amount, and Labor Relations may not have the authority to issue Internal Revenue Service Forms W-2 to workers receiving restitution payments.

Our objective was to gain an understanding of the deposit process and determine whether the controls used to administer and distribute restitution payments were adequate. To meet our objectives, we interviewed HUD staff involved in the deposit process and obtained all W-2s that were distributed for 2010.

This memorandum report provides interim results pertaining to our audit. Our audit work is ongoing; specifically, we are reviewing (1) cancelled checks, (2) the authority to prepare and distribute the W-2s, and (3) the discrepancies in the deposit account balance. Our preliminary results identified significant conditions that we wish to bring to your attention immediately.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of this audit.

SUMMARY

We found that the Acting Director's concerns had merit. Labor Relations had weak internal controls over its deposit account. Complete responsibility for managing the deposits, processing payments, and reporting for the deposit account was vested in Labor Relations' senior policy advisor. Specifically, the advisor

- Found workers.
- Certified and approved payment vouchers and deposits.
- Prepared and distributed W-2s for found workers who received restitution payments in 2010.
- Maintained the deposit account transactions on Quicken (a personal finance software) on the advisor's home computer.
- Did not reconcile the deposit account balance with the official fund balance maintained by the Chief Financial Officer's (CFO) office.
- Had the same level of access as the system administrator for the LR2000.¹

Based on our survey results, we believe that the senior policy advisor had too much control over the deposit process. The Director of the Office of Departmental Operations and Coordination needs to immediately segregate the duties for managing the deposit account that are performed by the advisor. The detailed results of our review follow.

METHODOLOGY AND SCOPE

Our overall objective was to understand the deposit process and determine whether controls used to administer and distribute restitution payments were adequate. To accomplish our survey objective, we

- Reviewed applicable HUD guidance, specifically HUD Handbook 1344.1 and "Making Davis Bacon Work."
- Conducted interviews with the Labor Relations employees, CFO staff, and the vendor that processed the W-2s.
- Obtained an understanding of the deposits, wage restitution payments, and refunds made to the depositors.

We performed the majority of our review between July and September 2011 at HUD headquarters, located in Washington, DC.

BACKGROUND

The Director of the Office of Departmental Operations and Coordination has oversight of Labor Relations. The Director of Labor Relations oversees the staff that is located in HUD headquarters and each HUD region. The Labor Relations staff is responsible for oversight, administration, and enforcement for HUD construction projects covered by the Davis-Bacon Act

¹ LR2000 is Labor Relations' complaint system to record, track, update, and generate reports relative to the implementation of the Davis Bacon Act in HUD and for HUD projects.

and other labor standards laws. Davis-Bacon requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics working on Federal Government and District of Columbia construction² projects that cost in excess of \$2,000. Labor Relations staff directly administers and enforces Davis-Bacon for Office of Housing multifamily development programs.

A Davis-Bacon wage decision is a listing of different work classifications and the minimum wage rate (prevailing wage) that must be paid to anyone performing work in those classifications. When contractors or employers do not meet the prevailing wage rates, underpayments occur, and the employer will be required to pay wage restitution to the affected employees. The employer is allowed 30 days to correct the underpayments. After wage restitution has been paid to all of the workers who can be located, the employer must submit a list of workers who could not be found and paid. The employers must provide the unfound workers' names, Social Security numbers, and last known addresses and the gross amounts unpaid to the labor relations specialist or local contracting agencies.³ In such cases, at the end of the project, the employer will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator⁴ will continue attempts to locate the unfound workers for 3 years after the completion of the project. After 3 years, any amount remaining in the account for unfound workers should be credited and forwarded by the contract administrator to HUD.

Since the deposit account is essentially an escrow account, the money remains in the account until a worker owed wage restitution or a depositor owed a refund is found. There are deposits in the account that are more than 20 years old that have not been claimed or the recipient has not been found. According to CFO records, this deposit account maintained an average balance of \$2.8 million in 2010. There was a constant outflow of funds in the deposit account that ranged from less than \$1 to \$35,000.

² Construction includes alteration or repair, including painting and decorating of public buildings or public works.

³ Local contracting agencies are public housing agencies; Indian tribes and tribally designated housing entities; and States, cities, and counties under HUD's Community Development Block Grant and HOME Investment Partnerships programs.

⁴ The contract administrator could be a HUD employee or agent for HUD (such as a city, county or public housing agency).

RESULTS OF REVIEW

Labor Relations Did Not Separate the Duties for the Deposits and Wage Restitution Payments

Labor Relations had weak internal controls over the deposits and wage restitution payments. The senior policy advisor found workers, certified and approved vouchers for wage restitution payments and refunds, tracked the deposit account transactions, and had system administrator access to LR2000. Labor Relations' internal controls were deemed weak because only one person was designated to manage these duties. The result of this lack of segregation of duties heightens the risk of undetected errors and allows opportunities to misappropriate funds or conceal intentional misstatements of wage restitution payments and refunds.

Office of Management and Budget Circular A-123, Management Responsibilities for Internal Control, identifies segregation of duties as a control activity component. Further, duties are effectively segregated when key duties and responsibilities are divided or segregated among different people to reduce the risk of error, waste, or fraud.

In the case of the deposits and wage restitution payment process, Labor Relations' advisor had responsibility for all key duties of the deposit process.

Found workers. The advisor located unfound workers (a function that should be performed by the labor relations specialist or local contracting agencies), prepared the voucher, and either approved or certified the voucher used to issue payments to the workers. These workers need to be found and paid, but the advisor should not locate the workers and prepare the payment vouchers.

Certification and approval of payment vouchers and deposits. For the found workers to be paid, Labor Relations used a voucher (form HUD-4734) that had to be submitted to the CFO. This voucher contained information the CFO needed to disburse funds by check or direct deposit to the found workers. At times, the advisor was the certifier on those forms, at other times, the approver, but not at the same time. For better control and as specified on the HUD-4734, the certifier should be the regional labor relations officer; and although not specified on the HUD 4734, the approver should be the Director of Labor Relations who is in a position above the certifier. Regardless, if the advisor signed as the certifier or the approver, the advisor did not have the authority to process these vouchers.

Preparation and distribution of W-2s. For tax year 2010, the advisor was responsible for preparing and distributing W-2s for workers who received restitution wages during the year. Most importantly, the advisor sent an unencrypted spreadsheet containing the workers' names, Social Security numbers, and wage amounts to the vendor that processed the W-2s. Details of our review of the W-2 process will be presented in our final report. We also reported the incident of a potential breach to the Office of the Chief Information Officer.

Maintained and tracked account balance. The advisor used Quicken to track all transactions (deposits and payments) for the deposit account. The advisor maintained these transactions on a personal home computer. The advisor explained that the beginning balance for the account was

taken from a printout from the predecessor system⁵ to LR2000. That balance contained information on the deposit account before December 31, 1999. The advisor recognized that there were errors and inconsistencies on the printout, but continued to use the printout without making adjustments to the earlier balances. On July 5, 2011, the advisor estimated the deposit account balance to be more than \$3.3 million.

Reconciliation of the account balance. The CFO's office performed monthly reconciliations of HUD's accounts with the U.S. Department of the Treasury; thus, the CFO's balance was the actual balance in the deposit account. Even so, neither Labor Relations nor the CFO's office had attempted to reconcile its balances for the deposit account. On June 30, 2011, the CFO's office showed that the official balance on hand with the U.S. Treasury for the deposit account was just under \$2.7 million. This is a \$648,010 discrepancy between Labor Relations' advisor's records and the CFO's balance.

System administrator access. The LR2000 system is the official system that Labor Relations used to not only record, track, and update wage restitution payments and refunds, but to maintain various types of data on Davis-Bacon determinations and investigations of contractors. The advisor had the same level of access in LR2000 as the system administrator. This access allowed the advisor to not only review all of the Labor Relations' region's data, but also to make changes to information entered by the Labor Relations regional staff on found workers, wage restitution owed, deposit information, and refunds. This level of access heightens the possible risk of undetected errors.

The advisor assumed the duties for the deposit account because there was a continuous change in leadership in Labor Relations as well as a shortage of staff. As a result of the various changes in management, the controls over the deposit account had weakened and undetected errors and opportunities to misappropriate assets or conceal intentional misstatements could occur.

RECOMMENDATIONS

The Office of Labor Relations needs to correct the internal controls discussed above immediately to ensure that the funds in the deposit account are properly maintained and accounted for.

To accomplish this task, we recommend that the Director of the Office of Departmental Operations and Coordination

- 1A. Reassign and disperse among the Labor Relations regional offices the duties of tracking the deposit transactions and certifying payment vouchers.
- 1B. Decrease the senior policy advisor's access to LR2000 to a level lower than that of the system administrator.
- 1C. Ensure that the Director of Labor Relations has final approval authority over all vouchers for payments to workers or refunds to depositors.

⁵ The predecessor system was replaced for a year 2000-compliant system, which is LR2000.


- 1D Ensure that the Labor Relations balance for the deposit account is immediately reconciled with the balance reported by the Office of the Chief Financial Officer.

AUDITEE COMMENTS AND OIG'S EVALUATION

**Reference to OIG
Evaluation**

Auditee Comments

Comment 1

	<p>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT Washington, D.C. 20410-0003</p>
<p>OFFICE OF DEPARTMENTAL OPERATIONS AND COORDINATION</p>	<p>SEP 27 2011</p>
<p>MEMORANDUM FOR: Sandra G. Elion, Director, Headquarters Audit Division, GAH</p>	
<p>FROM: Inez Banks-DuBose, Director, Office of Departmental Operations & Coordination, I</p>	
<p>SUBJECT: Response to Draft Interim Report on the Office of Labor Relations' Management of the Davis-Bacon Wage Restitution and Deposit Account</p>	
<p>The purpose of this memorandum is to respond to the recommendations in the Draft Interim Report on the Office of Labor Relations' Management of the Davis-Bacon Wage Restitution and Deposit Account. Specifically:</p>	
<p>Recommendation 1A. Reassign and disperse among the Labor Relations regional offices the duties of tracking the deposit transactions and certifying payment vouchers.</p>	
<p>The field staff is being notified via a memorandum of instruction to follow the language in Section 9-8 through 9-16 in the draft HUD Handbook 1344.1 Rev 2. These sections outline the basic deposit requirements from beginning to end and clearly note where supervisory approval is required. The revised handbook is scheduled to be forwarded to the Office of Administration for departmental clearance on October 14, 2011.</p>	
<p>During the week of August 23-26, 2011, National Labor Relations Training was conducted for field and regional staff and a significant amount of time was concentrated on the deposit process. Specifically, a separate module called Deposit Account Voucher LR2000 Entries was a pivotal subject of the training.</p>	
<p>Briefly, the Labor Relations Specialist in the field must enter deposit information into the LR2000 Deposit Module requesting approval by the Regional Labor Relations Officer. When situations result in wage restitution (back wages as the result of underpayment by the contractor), then the Labor Relations Specialist generates the voucher for payment, which must be reviewed and approved by the Regional Labor Relations Officer before being forwarded to Headquarters for approval. The Director of Labor Relations must certify the approved voucher before it is sent to the Office of the Chief Financial Officer for payment via check for now, and as soon as modifications can be made to LR2000 via Electronic funds transfer only.</p>	

In the infrequent case of wage restitution cases being handled by Headquarters Labor Relations staff, the Director of Labor Relations will approve the vouchers and the Deputy Director or Director of the Office of Departmental Operations and Coordination (ODOC) certify the voucher for payment.

All vouchers and documents related to payment of wage restitution must be generated in the LR2000 system and tracked in the LR2000 system.

Recommendation 1B. Decrease the senior policy advisor's access to LR2000 to a level lower than that of the system administrator.

The Senior Policy Advisor's access level has been lowered to a level that is no longer the same level as the system administrator. The Senior Policy Advisor's level has been lowered to a "6", which allows the ability to generate Headquarters Reports. This directive was issued on Friday, September 22, 2011. The Acting Director of Labor Relations has informed me that this action has been completed.

Recommendation 1C. Ensure that the Director of Labor Relations has final authority over all vouchers for payment to workers or refunds to depositors.

The Director of Labor Relations must certify all of the approved vouchers before they are sent to the Office of the Chief Financial Officer for payment via a check, until modifications are made in the LR2000 reporting system that allow Electronic Funds Transfers.

Recommendation 1D. Ensure that the Labor Relations balance for the deposit account is immediately reconciled with the balance reported by the Office of the Chief Financial Officer.

The Acting Labor Relations Director has contacted the Office of the Chief Financial Officer (CFO) to begin this process. It is anticipated that this process will be completed no later than December 15, 2011.

If you have any questions, please contact me at (202) 402-5462 or Jackie Roundtree, Acting Director, Office of Labor Relations, at (202) 402-6297.

OIG Evaluation of Auditee Comments

Comment 1 We concur with all the Office of Departmental Operations and Coordination's actions to resolve the recommendations. Specifically, we agree with the issuance of the revised HUD Handbook 1344.1 which will clarify the deposit process, Senior Policy Advisor's decreased level access to LR2000, Office of Labor Relations Director approving all payment vouchers, and the deposit account reconciliation with the Office of the Chief Financial Officer.